

EXPANSION OF THE ENERGY COMMUNITY TO THE EAST: MOLDOVA, UKRAINE, GEORGIA

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ABSTRACT

The Energy Community is a process that aims to extend the European Union's internal energy market to the South East European region. For this purpose the Treaty was established by the European Commission in October 2005 when Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, Macedonia, Romania, Serbia and UNMIK on behalf of Kosovo signed the Treaty establishing the Energy Community. The Treaty requires the Contracting Parties to implement the most important documents of the *Acquis Communautaire*, provides for the creation of a single energy market and the mechanism for the operation of network markets.

In November 2006 two countries from the Eastern neighbourhood, namely, Moldova and Ukraine, became the observers at the Energy Community, Georgia joined them in December 2007. In order to become the full members of the Treaty those countries were revising their legislation in compliance with the main EU directives and regulations in the areas of energy market development, environmental regulation and competition.

This article deals with the analyses of electricity and gas markets developments of the 3 countries, and defines the main gaps of the legal and regulatory systems in comparison with the requirements of the Energy Community Treaty (ECT). The main tool applied was a comparative analysis of the existing legislation, electricity and gas market functioning, independence of energy regulators and other main requirements with those defined by the Treaty, i.e. with the *Acquis Communautaire*.

As negotiations with Moldova reached the successful conclusion and it may become a full member of the ECT from the May 1, 2010, it does not mean that the Moldova's electricity and gas sectors are competitive, energy regulator is fully independent and so on. In fact, Moldova's electricity sector is not competitive as the biggest generation unit, Cuciurgan thermal power plant with an available capacity of about 900 MW (installed capacity more than 2500 MW), unfortunately it is on the left bank of the Dniester river controlled by the separatist Transnistrian authorities. On the right side of the Dniester river there are three combined heat and power plants (CHP), a hydro power plant and several industrial power plants; the total available capacity is about 400 MW. The fact that the biggest power plant is in the separatist area causes also problems with the security of electricity supply. On the other hand, the electricity sector is restructured, the transmission company is state owned and the biggest distribution company is privatized. Similarly, the gas sector was restructured and privatized. But the only supplier, Gazprom, is not sufficient to develop a competitive market. Moldova's energy regulator is rather strong and independent.

Ukrainian electricity market is rather big and one may easily envisage competition there. Though unbundling in Ukraine is already quite advanced – transmission system operator is separated from production, trade and distribution in the ownership terms, but there exists a single buyer “Energorynok”, which isolates customers of wholesale market from suppliers and eliminate their choice to select a supplier - a simple transposition of the EU legislation is not possible without significant legal changes. A draft Law on the Principles of the Electricity Market Operation was developed in June 2009 and is now officially published on the website of the Regulator for consultation with the civil society and has been sent for the reconciliation of the interested ministries and institutions. The Regulator is legally functioning as a body,

independent from industry and the Cabinet of Ministers, but the draft Law on the National Energy Regulatory Commission was not passed and is still discussed at the Parliamentarian commissions.

The Georgian electricity market looks rather competitive as there are many producers (mostly hydro), but competition is rather limited due to the regulated generation prices for most of the generators. Transmission and distribution companies are ownership unbundled, distribution is fully privatised. Georgian gas sector is fully liberalised and there is a competition between the Russian and Azeri gas supplies. Georgian National Energy and Water Regulatory Commission, Georgian energy regulator, is rather powerful and independent, its rights and duties are defined in two main laws. There are some gaps in the Georgian energy legislation, of course, e.g. supply is bundled with distribution, the Regulator is not empowered to control the cross-border capacities and to develop (or approve) any mechanism for the use of those capacities as also to deal with the congestions.

As a *conclusion* we may declare that there were impressive developments towards liberalising electricity and gas markets during the last several years in the EU Eastern neighbourhood countries, as they were preparing to join the ECT. Moldova is becoming a full member, with Ukraine following and Georgia slightly behind.